IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.451 OF 2004

IN

WRIT PETITION NO.7698 OF 2004

Shree Suvarna Sahakari Bank Ltd. Appellant

versus

Anant Raghunath Nikam and another Respondents

V.P.Vaidya, adv. for appellant.

K.S.Bapat, adv. for R-1.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.

DATE : 15th December 2004

PC :

1. This Letters Patent Appeal is directed against the order of the learned single Judge dismissing the writ petition filed by the appellant to challenge the orders passed by Labour Court and Industrial Court.

3. The Labour Court in a complaint instituted by the respondent being Complaint (ULP) No.243 of

1999 granted reinstatement with full back wages and continuity after holding that the appellant is guilty of unfair labour practice under Item 1(a), (b), (d), (f) of Schedule-IV of Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "MRTU & PULP Act" for the sake of brevity"). The revision application preferred by the appellant against this judgement and order was dismissed by Industrial Court, Pune.

4. It is not necessary to go into details at this stage, as in our view, a reading of these judgements would show that prima facie the Courts below were in error in holding that the appellant is guilty of unfair labour practices. The issue before the Courts below was whether the respondent had resigned voluntarily from the job. We need not advert to the materials including the incident which led to the resignation of respondent. The Courts below were concerned whether the action was voluntary or it was a case of forced resignation. The Courts below have approached the matter as if the complaint arises out of an action of dismissal/termination upon misconduct proved in disciplinary inquiry. The approach of the Courts below prima facie,

therefore, raises arguable points and the writ petition could not have been thrown out in limine.

5. In the light of the aforesaid, we proceed to quash and set aside the order of learned Single Judge in the writ petition and substitute the same by following :-

A) Rule. Hearing expedited. Mr.Bapat appearing for respondent no.1 waives notice.

B) On condition that the appellant deposit a sum of Rs.5.00 lakh (Rs.Five lakh only) in this Court within a period of six weeks from today, there will be interim order in terms of prayer clause (c) of the writ petition;

C) Respondent would be at liberty to withdraw a sum of Rs.2.50 lakh (Rs.Two lakh fifty thousand only) without furnishing any security. The balance amount to be invested by the Registry in fixed deposit with a nationalised/ scheduled bank initially for a period of two years.

7. Letters Patent Appeal disposed of. In the light of disposal of LPA, Civil Application

No.472 of 2004 does not survive.

8. It is clarified that all the observations made by us are prima facie and shall not in any manner influence the learned Single Judge while deciding the writ petition.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)